Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

for permanent relief in other cases, and Governor Stuart of Pennsylvania in his message commends the efforts made in that State to rid the streams of pollution by the coöperation of municipalities and the State health authorities to that end.

Indiana in the recent session of the general assembly passed a law which follows in general the lines laid down in the statutes of Ohio, New York and Pennsylvania: the law is largely for the prevention of the growth of the evil, though in certain cases power is given to the State board of health to prevent stream pollution when the same becomes dangerous to the public health. The power granted in this law is lodged in the State board of health. Complaint may be made by the common council or board of health of any city or town, or by the board of county commissioners, or township trustees to the State board of health, that any municipality, person, or corporation is befouling the waters of a stream to the detriment of the public, and after a public hearing the State board of health may order such changes as will prevent further pollution, giving a reasonable time for complying with the order unless the stream polluted is a public water supply, in which case the order shall take effect at once. From the decision of the State board of health, any party aggrieved may appeal and have a further hearing before a board of sanitary engineers, appointed in each case for the purpose. A further appeal lies to the courts as to the necessity and reasonableness of the order of the State board of health. Power is also given to the State board of health to investigate the water supply of any city or town on complaint setting forth that the water supply is contaminated and the board may issue such corrective orders as may be necessary. The law is an advance over the laws heretofore enacted. It clothes the State board of health with important powers, and with coöperation the board should be able to materially lessen the evil.

JOHN A. LAPP.

Taxation—Constitutional Provisions—Adopted and Rejected in 1908. At the last general election some nineteen proposed constitutional amendments relating to taxation were voted on and only the five following received the approval of the people: in Missouri one relating to taxation for highway purposes; in Texas one levying a tax for school purposes; in Wisconsin one for an income tax, and one for a levy for the construction and improvement of highways; and in Louisiana one for the exemption of mortgages.

California refused to provide for the separation of the sources of State

and local revenue, or even to repeal the mortgage tax law; Missouri was of the same opinion with regard to the separation of the sources and rejected one of the highway amendments; South Dakota refused to adopt general provisions in place of specific and turned down the income tax proposition; Ohio and Washington agreed with South Dakota that general provisions could not be adopted at the expense of specific restrictions and limitations; Minnesota refused every amendment offered,—the taxation of church property unless used for religious purposes, the highway and bridge tax, and the tax to provide for payment in case of loss from wind and hail; Montana and Utah both refused to change the existing tax rate on property and Texas did not give the road and bridge tax favorable consideration.

Both constitutional amendments relating to revenue and taxation in California were lost. One dealt with mortgage taxation, the other with the question of the separation of the sources of State and local revenue. The first aimed to repeal an old and obsolete provision that is admitted to be a failure by economists and students of the question and so unjust in practice that even the courts have permitted its evasion; the second to institute a plan of taxation new and untried in California. The former aimed to remove from the constitution a provision evaded by all mortgagors and mortgagees and legislated against by statute; the latter to introduce a plan the expediency of which is still doubtful, so doubtful in fact that it should be statutory and not constitutional law. Both were lost. The people would not discard the old mortgage tax law and refused to declare themselves for a separation of the sources of State and local revenue.

Failure to repeal the mortgage tax law was due entirely to the people's aversion to a change in the existing fundamental law. Before 1906 the constitution of California contained two clauses on the subject of mortgage taxation. Section 5 (art. 13) stated that every contract in which the debtor agreed to pay any tax on the money loaned on any mortgage was to be null and void. The people were willing to have this clause repealed and did vote for its repeal in 1906. In 1907 an act was passed permitting the parties to the mortgage contract to enter into an agreement relative to the payment of the taxes. Each might pay for the other without any additions being made to or subtractions being made from the amount of the debt. Section 4 (art. 13) of the constitution still remained, however, and provided that while the tax might be paid by either party to the agreement yet if it was all paid by the owner of the security the tax that was levied on the property was to become a part

of the debt and if it was all paid by the owner of the property the part that was levied on the security but paid by the mortgagor was to be considered as a part payment of the interest or debt. The legislature endeavored to do away with this conflict between the constitution and the ruling of the supreme court, this conflict between the constitution and the statute, by repealing the constitutional provision. The people objected by a vote of 90,896 to 90,061 and the provision, although inoperative, still remains.

The proposed constitutional amendment relating to the separation of the sources of State and local revenue was rejected by a safe majority, and yet the minority was large enough to lend encouragement to the advocates of the project. The vote stood 87,977 for and 114,104 against. The proposed constitutional provision was very comprehensive but much too detailed for a good constitutional provision. The whole prospective tax system of the State was outlined; revenue from corporations and public utilities were to go to the State; revenues from all other sources to the minor political units and subdivisions; and the details of the law relating to State revenue were filled in even down to the rate. The people in future years would have needed only to change the rate now and then or perhaps add or subtract a few sources of revenue.

Railroads, including street railways, whether operated in one or more counties; sleeping car, dining car, drawing-room car, and other car-loaning, and other car companies operating upon railroads in the State; every company doing express business on any railroad, steamboat, vessel or stage line in the State; telegraph companies, telephone companies; companies engaged in the transmission or sale of gas or electricity; insurance companies, banks, banking associations, savings and loan societies, and trust companies; and all franchises of every kind and nature were to be entirely and exclusively taxed for State purposes.

All other property, not exempt, was to be subject to assessment and taxation in the manner provided by law for county, city and county, city, town, township and district purposes.

Public service corporations were to pay a tax annually to the State upon their franchises, roadways, road beds, rails, rolling stock, poles, wires, pipes, canals, conduits, rights of way and other property used in the operation of their business in the State. This tax to be a percentage on the gross receipts as follows: On all railroad companies, including street railways, 4 per cent; on all sleeping car, dining car, drawing-room car, palace car companies, refrigerator, oil, stock, fruit and other car-loaning, and other car companies, 3 per cent; on all companies doing

express business on any railroad, steamboat, vessel or stage line, 2 per cent; on all telegraph and telephone companies, 3½ per cent; on all companies engaged in the transmission or sale of gas or electricity, 4 per cent.

This tax was to be in lieu of all other charges and fees except amounts agreed to be paid or required by law to be paid for any special privilege or franchise granted by a municipality.

Insurance companies were to be taxed 1½ per cent upon the amount of the gross premiums received upon the amount of business done in the State. Return premiums and re-insurance items were to be deducted from the amount of gross premiums received and county or municipal taxes levied on real estate possessed by the company were to be deducted from the total amount of taxes.

Bank shares were to be assessed to the owner or holder in the city or town where the bank was located; each share to be taxed upon a value to be computed by taking the amount paid in together with its pro rata of the accumulated surplus and undivided profits.

All other corporations, excepting educational, religious and charitable, and corporations not organized for pecuniary profit, were to pay an annual tax to the State upon their franchise to be a corporation, if domestic, and upon their right to do business in the State, if foreign. The tax ranged from $10 to $250 as the capital stock varied from $10,000 to $5,000,000 and over.

The proposed amendment for Missouri, although much more general than the one offered in California, was defeated. It was very brief and left much to the discretion of the legislature. The separation of the sources of revenue and the establishment of local option and home rule was to have been effected by the discontinuance of the levy of the general property tax upon the real and personal property of the State and after the discontinuance of the State tax on such property the counties and cities might subject it to taxation for local purposes. The local units were also given power to exempt any class of property within their jurisdiction from taxation either wholly or by a reduction of the rate. Any taxation or exemption from taxation made in any county or city, however, was to be uniform upon the same class of subjects. The actual separation of the sources of revenue was not to be construed as impairing the authority of the general assembly from levying any tax upon the special subjects of taxation other than the general property tax upon real and personal property, and if the general assembly did select any special subject for State taxation it was to be allowed to exempt it from

any form of local levy. All the proceeds from this State tax might be used for State purposes or might be appropriated to the counties of the State and the city of St. Louis on such basis and in such manner as the legislature might provide.

The intent of the amendment was that it should be general. The general assembly was to be given considerable discretionary power; it might allow the locality to simply tax real and personal property and make up the deficit by a State appropriation or on the other hand it might allow the minor political subdivisions to tax all sources of revenue and let the State derive its revenue from appropriations made by the counties. The exact division of the sources in the first instance would be fixed by what seemed wise and expedient, and changes would be made as experience demanded. All changes could be made without a constitutional amendment except the complete abolition of the idea and system.

Two other amendments were voted on in Missouri; both dealt with taxes for the maintenance of roads and highways. One proposed amendment provided for a State tax of $0.10 on the $100 assessed valuation to be levied and collected on all objects and subjects of taxation. The money derived from this levy was to be set apart and appropriated in the several counties of the State as a permanent fund for public roads and highways. This amendment did not receive the approval of the people.

The other proposed amendment relating to a tax for road purposes stated that in addition to taxes authorized to be levied for county purposes the county court in the several counties of the State not under township organization, and the township board of directors in the several counties under township organization might in their discretion levy and collect a special tax not exceeding $0.25 on each $100 valuation to be used for road and bridge purposes. This amendment was favorably considered.

The proposed amendment in South Dakota took the form of a new set of constitutional provisions much more general than the present law. The legislature was to provide for raising sufficient revenue by an annual tax to defray the ordinary expenses of the State and for the purpose of paying the public debt. Taxes were to be uniform upon the same class of subjects and to be levied and collected for public purposes. Incomes to be classified in respect to receipts and a graduated or progressive tax levied with such exemptions as might be prescribed. The people refused to adopt the plan as proposed, they preferred the old constitutional limitations forbidding the classification of property, forbidding

the exemption of money and credits or their taxation at a lower rate, forbidding the removal of the limit on the rate of taxation for State purposes and for paying the public debt, forbidding a change in the rule requiring that a uniform rate shall be levied on all real and personal property according to its true value in money.

A similar step was attempted in Washington with similar results. The legislature proposed to insert three simple provisions; the power of taxation was never to be surrendered, suspended, or contracted away, taxes were to be uniform upon the same class of subjects, and levied and collected for public purposes only. The people refused to accept the proposed amendment, preferring to retain the old provisions requiring that all property, not exempt, be taxed in proportion to its value, that a uniform and equal rate of assessment and taxation be applied to all property, and that the legislature should provide by general law for the assessing and levying of taxes on all corporate property by the same methods as are provided for the assessing and levying of taxes on individual property.

Three amendments were offered in Minnesota and all were defeated. The first was but a minor amendment relating to the taxation of church property unless used for religious purposes. The second considered the question of aid in the construction and improvement of highways and bridges and provided for the creation of a fund made up of incomes derived from investment in the internal improvement land fund, and the proceeds from an annual tax levied on the property of the State. The third stated that if the land owners wished they might list their land with the county auditors and thus become liable to a specific tax to provide a fund for the payment of damages done to growing crops by wind and hail. No payment of damages was to be made except from the fund provided in this manner.

In Montana an attempt was made to change the rate of taxation on real and personal property for State purposes, so that whenever the taxable property amounted to five hundred million dollars the rate was not to exceed two and one-half mills and whenever it amounted to eight hundred million dollars the rate was not to exceed two mills; no attempt was made to change the present rate limit of three mills on the assessed value of the property. The people expressed their preference for the constitution.

In Utah a similar amendment was offered and defeated by less than two hundred votes. Under the proposed amendment the rate of taxation on property for State purposes was never to exceed eight mills on

each dollar of valuation. The secondary rates making up this total were also limited and fixed. The rate for general State purposes could not exceed four and one-half mills, for district school purposes three mills, and for high school purposes one-half mill on each dollar of valuation and whenever the taxable property of the State amounted to $400,000,000 the rate was not to exceed five mills unless sanctioned by a majority vote of the qualified tax-paying electors.

Two amendments were proposed and voted on in Texas; the one relating to taxation for school purposes was carried, but the one dealing with taxation for road and bridge purposes was lost. The people voted that one-fourth of the revenue derived from the State, occupation and poll taxes should annually be set apart for the benefit of the free public schools, that there should be levied and collected an anual ad valorem State tax not exceeding $0.20 on the $100 valuation for the same purpose, and that in addition the legislature might authorize an additional ad valorem tax to be levied for the maintenance of schools and the erection of buildings if a majority of the qualified tax-paying voters of the district were in favor of such a tax. The rejected amendment provided that a majority of the property tax-paying voters in any county or one or more political subdivisions of a county might vote a tax not to exceed $0.30 on the $100 valuation or might issue bonds not to exceed 20 per cent of the assessed value of the real property in the district for road and bridge purposes.

In Wisconsin both amendments proposed were approved by the people. One provided that the State might appropriate money already in the treasury or to be thereafter raised by taxation for the construction and improvement of highways; the other that taxes might be imposed on incomes, privileges, and occupations and that such taxes might be graduated and progressive with reasonable exemptions.

The Louisiana legislature, sanctioned by a vote of the people, permitted the exemption of mortgages from taxation. Louisiana now belongs in the class with Idaho and Washington. The provision reads as follows: "In addition to the property now exempt by existing laws there shall also be exempt from taxation loans made upon the security of mortgages granted upon real estate situated in this State, as well as the mortgages granted to secure said loans, and the notes, bonds, or other written instruments evidencing the said loans, whether in the hands of the mortgagee or his or their transferees."

After the proposed amendments providing for the separation of the sources of State and local revenue in Missouri and California perhaps the

next most important proposed amendment was the one in Ohio. For a number of years Ohio has been struggling with her restrictive constitutional provision relating to taxation. It reads in part as follows: "Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money." An honorary tax commission advised the repeal of this section and the incorporation of the following: "The general assembly shall have power to establish and maintain an equitable system for raising State and local revenue. It may classify the subjects of taxation so far as their differences justify the same, in order to secure a just return from each. All taxes and other charges shall be imposed for public purposes only and shall be just to each subject. The power of taxation shall never be surrendered, suspended, or contracted away."

The legislature passed the necessary resolutions, the provision was voted on and rejected.

If we consider these amendments, both approved and rejected, by subjects, we find that the provisions for the separation of the sources of State and local revenue were defeated in California and Missouri; that general provisions to take the place of specific were rejected in Ohio, South Dakota and Washington; that the existing constitutional rate was retained in Montana and Utah; that taxes for highways were approved in Missouri and Wisconsin and disapproved in Minnesota, Missouri (ten amendments were voted on in Missouri) and Texas; that the income tax was approved in Wisconsin and rejected in South Dakota or else was voted down with the longer amendment of which it was a part; that provision for taxes to pay damages done by wind and hail was rejected in Minnesota; that the taxation of church property was not approved in Minnesota; that a tax for school purposes was adopted in Texas; and that the mortgage tax law was retained in the constitution of California and the clause providing for the exemption of mortgages was favorably considered in Louisiana.

ROBERT ARGYLL CAMPBELL.

Corporation taxes—Ontario, Canada. In 1908 the legislative assembly of the Province of Ontario, Canada, passed an act to supplement the revenues of the crown. In reality this act is a revision and compilation of acts passed at previous sessions, with slight amendments added. The act deals entirely with taxes levied on capitalistic, insurance, and public